

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

SIMON RAMIREZ

Claimant

VS.

EXCEL CORPORATION

Respondent

Self-Insured

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Docket No. 196,340

ORDER

Claimant appeals from the Award entered by Special Administrative Law Judge William F. Morrissey on April 30, 1997.

APPEARANCES

Chris A. Clements of Wichita, Kansas, appeared on behalf of claimant. D. Shane Bangerter of Dodge City, Kansas, appeared on behalf of respondent, a qualified self-insured.

RECORD AND STIPULATIONS

The Appeals Board has reviewed the record listed in the award and has adopted the stipulations listed in the Award.

ISSUE

The sole issue on appeal is the nature and extent of claimant's disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After considering the argument, the Appeals Board finds that the Award by the Special Administrative Law Judge should be affirmed.

The record reflects claimant injured his right knee when he tripped while pushing a barrel of fat. Bradley W. Bruner, M.D., performed surgery on August 11, 1995. Dr. Bruner ultimately rated claimant's impairment as 25 percent of the right leg. Claimant was also examined by C. Reiff Brown, M.D. Dr. Brown rated claimant's impairment as 4 percent impairment to the right

leg. The Special Administrative Law Judge gave equal weight to these two impairment ratings and awarded claimant benefits for a 14.5 percent loss of use of the right leg.

On appeal, claimant argues that the award should be based exclusively on the evaluation by Dr. Bruner. Respondent, on the other hand, contends that the award should be reduced. The Appeals Board finds from its review of the record that the claimant did sustain a 14.5 percent permanent partial loss of use of the right lower extremity and the Award by the Special Administrative Law Judge should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge William F. Morrissey, dated April 30, 1997, should be, and is hereby, affirmed.

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Simon Ramirez and against the respondent, Excel Corporation, a qualified self-insured, for an accidental injury which occurred November 2, 1994, and based upon an average weekly wage of \$447.58 for 10.57 weeks of temporary total disability compensation at the rate of \$298.40 per week or \$3,154.09, followed by 27.47 weeks at the rate of \$298.40 per week or \$8,197.05, for a 14.5% permanent partial loss of use to the right leg, making a total award of \$11,351.14, all of which is presently due and owing.

The Appeals Board also approves and adopts all other orders made in the Award by the Special Administrative Law Judge.

IT IS SO ORDERED.

Dated this ____ day of August 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Chris A. Clements, Wichita, KS
D. Shane Bangerter, Dodge City, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director